

March 26, 2007

Dear Representatives serving on the Human Services Committee,

My name is Barbara Gutschenritter, MD. I am a cancer specialist. I have been practicing medicine for 25 years, for 20 years here in Montana. I have hospital privileges on 5 medical staffs. I am here today to voice my vehement opposition to SB 368. I certainly would have been here to testify before the Senate, had I known about this bill.

I understand that, from the perspective of the public and the Senate, one would assume that this bill serves the purpose of providing hospital oversight of its medical staff or for a medical group to provide oversight of the physicians in their group.

I am here today to let you know how the process of "Peer Review" can be abused and manipulated. It can be used to target and attempt to destroy a physician who has made no error in patient care, but who has, for some reason, fallen out of favor with the hospital or medical group. Such an attack against a physician and the initiation of "sham" peer review may occur for a number of reasons, e.g.: the physician may be seen as an economic competitor; the physician may have raised patient care concerns that make the hospital or physician colleagues uncomfortable; the physician may have raised concern about another physician's lack of credentials in performing a certain procedure; the physician may have declined to participate in another physician's sham peer review process.

This is retaliation disguised to look like peer review. How can this happen? It's easy. Ask the Horthy Springer law firm of Pittsburgh, PA. There is a well-formulated template:

-- Hospital administrators typically are able to find a few physicians they can count on. Often the etiology of that loyalty is money. Perhaps the physician is offered \$50K, perhaps \$100K, perhaps \$150K to head one of the hospital departments. Perhaps the administration surreptitiously contributes to a physician's medical group by paying a hefty salary. Perhaps it's a lavish trip. Unfortunately, physician loyalty can be bought and can be manipulated.

--Once you have a few in the core group, the next step is to start the rumor mill about the targeted physician. Assemble a list of ALLEGED wrongdoings on the part of the physician, no matter how trivial, no matter how invalid. Try to make it a huge list; try to overwhelm the physician.

--Start a paper trail. Start hauling the doc in to "peer review" meetings, which can be scheduled with a 24 hour notice, to discuss "concerns" with no notice of what the issues are. If, for example, a secretary complains that a physician makes too many corrections on consultation reports, that complaint is not specified to the physician. It may be couched as a vague complaint that the physician is creating a hostile work environment, in order to "protect confidentiality". No one is allowed to accompany the physician to a peer review meeting, no legal representation, no taping of any such meeting. And this is

carried out with the warning that the mention of anything about this meeting to any hospital employee, any colleague, or any board member by the physician is grounds for immediate dismissal.

--Perpetuate a rumor mail. Start telling other physicians, board members, etc ANYTHING about this doctor. Make it up...the individual was raised in an abusive family environment, that he/she, has a long history of mental illness or perhaps a history of some weird sexual addiction. It doesn't matter. This is all under the guise of "peer review", which is shrouded by confidentiality.

--Find some reason to send the doctor off for a psychiatric evaluation (at his or her expense). If it comes back clean, find a different evaluator and try again. Arrange for the evaluator to visit with hand picked witnesses to the physician's behavior. If the evaluation finds the hospital to be dysfunctional, bury the report.

--If doc resigns or is "fired" (privileges revoked), attempt to block him/ her from working elsewhere. Try to ruin him/her financially so that the doctor is unable to fund a legal challenge

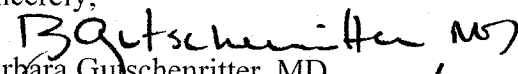
I have seen too many physician colleagues who smeared by this sham peer review process. This is a travesty. This is Kafka-esque. The medical profession is the only one in which a physician may be fired and have absolutely no recourse, because of the veil of immunity or "confidentiality". A doctor targeted by this process has no means to clear his or her name. Only with the initiation of a law suit does the physician even get to see, through discovery, the specific allegations. This bill does not allow the physician to EVER learn of the specifics of any complaints. This bill takes away the physician's only recourse which is in the courts of the state.

Moreover, the valid patient care concerns frequently at the heart of this type of retaliation never come to light. This should be frightening to all of us.

I urge you representatives to look behind this bill, to the intent behind it. While PURPORTING to facilitate Peer Review within a hospital or a medical group, what this legislation does is make it easier for a hospital or a medical group to fire physicians who have differing views.

I urge you to all to protect your constituencies from bad doctors. I urge you to vote against this bill.

Sincerely,


Barbara Gutschenritter, MD
Sletten Cancer Institute
1117 29th Street South
Great Falls, MT 59405
(406) 253-1662 (cell)